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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91206284
Party	Plaintiff Starbuzz Tobacco, Inc.
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Date	09/01/2016
Attachments	Answer to Petition and Counterclaims - 090116.pdf(74994 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application No. 85/303,577

Mark: HAZE TOBACCO

Filed: April 25, 2011

Published: April 3, 2012

STARBUZZ TOBACCO, INC.,

Opposer,

v.

HAZE TOBACCO LLC,

Applicant.

OPPOSITION NO: 91206284

OPPOSER’S ANSWER TO APPLICANT’S COUNTERCLAIMS

Opposer, Starbuzz Tobacco, Inc. (“Opposer”), a corporation organized and existing under the laws of the State of California, hereby answers the allegations set forth in Applicant, Haze Tobacco LLC’s (“Applicant”) Counterclaims.

FIRST COUNTERCLAIM

Cancellation or Amendment of U.S. Reg. 3,736,577

1. Opposer admits that on June 8, 2009, it applied to register the mark BLUEBERRY HAZE, in connection with “PIPE TOBACCO; TOBACCO; SMOKING TOBACCO; FLAVORED TOBACCO; MOLASSES TOBACCO,” but denies that it claimed first a use in commerce as of January 1, 2008. Opposer claimed a first use in commerce as of January 9, 2008.
2. Opposer denies that its claimed first use date and the scope of claimed use were material misrepresentations. Opposer lacks knowledge and information sufficient to

form a belief as to the truth of the remaining allegations in Paragraph 2 and therefore denies those allegations.

3. Opposer admits that it filed a specimen of use with the USPTO but denies the remaining allegations contained in Paragraph 3 of the Counterclaim.

4. Opposer denies the allegations in Paragraph 4 of the Counterclaim.

5. Opposer denies the allegations in Paragraph 5 of the Counterclaim.

6. Opposer denies the allegations in Paragraph 6 of the Counterclaim.

7. Opposer denies the allegations in Paragraph 7 of the Counterclaim.

AFFIRMATIVE DEFENSES

Without admitting any allegations in the Counterclaim not otherwise admitted, Opposer avers and asserts affirmative defenses as follows:

FIRST AFFIRMATIVE DEFENSE (Failure to State a Claim)

The Counterclaim, in whole or in part, fails to state a claim upon which relief may be granted, and therefore should be dismissed.

SECOND AFFIRMATIVE DEFENSE (Laches)

Applicant's claims are barred since it has known, or should have known, of Opposer's trademark application and/or registration but failed to take any timely action.

THIRD AFFIRMATIVE DEFENSE (Unclean Hands)

Applicant's claims are barred, in whole or in part, by the doctrine of unclean hands.

**FOURTH AFFIRMATIVE DEFENSE
(No Injury)**

Applicant's claims are barred since it is not likely to suffer injury nor is there a likelihood of injury.

**FIFTH AFFIRMATIVE DEFENSE
(Estoppel)**

Applicant's claims are barred by the doctrine of estoppel.

**SIXTH AFFIRMATIVE DEFENSE
(Waiver)**

Applicant's claims are barred by the doctrine of waiver.

**SEVENTH AFFIRMATIVE DEFENSE
(No Abandonment)**

Applicant's claims are barred, in whole or in part, by Opposer's continuous use of its mark in commerce.

**EIGHTH AFFIRMATIVE DEFENSE
(Reservation)**

Opposer currently has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Opposer reserves the right to assert additional affirmative defenses in the event that the discovery indicates it would be appropriate.

Dated: September 1, 2016

Respectfully Submitted,
The Patel Law Firm, P.C.

/s/ natupatel

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CERTIFICATE OF SERVICE

I certify that a copy of this **OPPOSER'S ANSWER APPLICANT'S COUNTERCLAIMS** is being served via United States mail, postage prepaid, on this 1st day of September, 2016 to the following:

Applicant's Attorney/Representative:

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